

### **REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

#### **Summary of Examiner Interview**

As an initial matter, Applicants express gratitude to Examiner Prakasam for the courtesies extended Applicants' attorney during the recent interview of June 9, 2009. During the interview, the Examiner explained that her interpretation of "predetermined loading site" could include any placement of the loader that was determined prior to the loader moving to the spot, even if that determination was made immediately before guiding the loader or dumper to that location. Using this interpretation, the Examiner alleged that a controller using cameras to decide where the next scoop of broken rock should be placed followed by moving the loader to that location, would be a means for selecting a predetermined loading site in relation to a loading area. The Examiner alleged that this met the claimed language, because the controller determined where the site should be prior to moving the loader to the site.

The Examiner agreed that defining "predetermined" in a way that differentiates from the "determination" step described above should overcome the current rejection. Accordingly, Applicants amend Claim 12 and add Claim 22 to provide definitions of "predetermined loading sites," and thus, the rejection should be withdrawn.

### **Summary of the Response**

Claims 1-19 and 21 were pending in this application, with claims 1-11 being withdrawn. In this response, claim 12 is amended; claim 22 is added; and no claim is canceled. Thus, claims 1-19 and 21-22 are pending, with claims 1-11 still withdrawn.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims, Figure 1, and the specification, pages 4-5, paragraphs 10-11.

### ***REJECTIONS UNDER 35 U.S.C. § 103***

Claims 12-15, 17-19, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,442,456 to Burns et al. (hereafter "*Burns*") in view of U.S. Patent No. 6,363,632 to Stentz et al. (hereafter "*Stentz*"). Claims 12, 15-19, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burns et al. (hereafter "*Burns*") in view of U.S. Patent No. 6,157,889 to Baker (hereafter "*Baker*"). Claims 12, 15-19, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Baker* in view of *Burns*. Claims 12-15, 17-19, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Stentz* in view of *Burns*.

Independent claim 12 is amended to recite "wherein the predetermined loading site is selected prior to the arrival in the loading area of either one of the loader and the dumper." None of the art of record discloses these patentable features.

In this application, the definition of "a predetermined loading site" is a place in the mine which is decided in advance to the dumper and the loader arriving at the loading area. The

“predetermined loading site” is a location in the mine that loaders and dumpers travel to in order for the loader to dump its contents into a dump box of the dumper. This predetermined loading site is different from the working sites in the mine. None of the cited references, *Burns*, *Stentz*, or *Baker*, disclose this kind of separately defined loading site.

The Examiner combines *Stentz* with *Burns* and claims that combining these would be obvious and that it would be obvious that the autonomously operated dumper truck would have to be stopped at a predetermined loading site to facilitate the loading of the truck. However, in both *Stentz* and *Burns*, the loading place is at the working site of an excavator. It is not transporting material from a distant working site to a predetermined loading site which is separate from the working site.

In this application, a loader drives between a distant working site and the loading site receiving material from the distant working site and transporting it to the predetermined loading site to load the dumper. Further, the dumper drives between the predetermined loading site and a distant emptying area receiving the material at the loading site and transporting it to a distant emptying area where it empties its load and drives back to the loading site without a load.

The working site from which the loader receives the material may change in the mine while the predetermined loading site stays where it has been determined. For example, the predetermined loading site can be marked with specific targets or control posts. *See, e.g.*, p. 5, para. 11. Similarly, the emptying area for the dumper can change but the loading site as predetermined remains where it has been in spite of possible changes of the emptying area.

In *Stentz* and *Burns*, the place where the excavator loads material to the dumper changes every time that the working site or working place of the excavator changes, and there is no predetermined separate distant loading sites which would remain when the working site of the

excavator changes. The Examiner also rejects claim 12 over the combination of *Burns* with *Baker*. Like *Burns* and *Stentz*, *Baker* discloses that a dumper is loaded at the excavators working site, not at the separate predetermined distant loading site.

Therefore, *Burns*, *Stentz*, and *Baker* each disclose a loading site defined by the location of the excavator, where the dumper is controlled to move to the working site of the excavator that doubles as the loading site for the dumper. In this manner, the loading site is only determined after at least the excavator (referred to as a loader by the Examiner), is already present in the loading area. Therefore, the predetermined loading site is not selected in advance of the arrival in the loading area of at least the loader, and thus none of the references disclose at least that limitation of claim 12.

Further, it would not have been obvious to modify the systems of *Burns*, *Stentz*, or *Baker* to include a predetermined loading site in advance of the arrival in the loading area of the at least loader, at least because in each of the systems of *Burns*, *Stentz*, and *Baker* an excavator/loader changes its position in order to excavate the correct location, and it does not leave the working site to go to a predetermined loading site. Each time that the excavator/loader moves to a new excavating location, the controller determines a new loading site. Therefore, at least the excavator/loader is already present in the loading area when the loading site is determined, and thus the loading site is not predetermined in advance of the arrival in the loading area of either one of the loader and the dumper as recited in claim 12. For at least this reason, no *prima facie* case of obviousness has been established, and the rejection should be withdrawn.

Dependent claims 13-19 and 21, which depend from claim 12, are also not obvious for at least reasons similar to those for claim 12. For at least these reasons, Applicants respectfully request withdrawal of the rejection.

Further, new claim 22 recites that the apparatus includes means for selecting at least two predetermined loading sites in relation to a loading area “wherein at least the first and second predetermined loading sites are selected prior to the dumper or loader arriving in the loading area.” Applicants submit that these elements are also not disclosed or suggested from any of the cited references, *Burns*, *Stentz*, and *Baker*. Therefore, Applicants submit that claim 22 is allowable over the cited references for at least this additional reason.

For at least the foregoing reasons, it is submitted that the apparatus of claims 12 and 22, and the claims depending therefrom, are patentably distinguishable over the applied documents. Accordingly, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

**Conclusion**

Should any questions arise in connection with this application, or should the Examiner believe a telephone conference would be helpful in resolving any remaining issues pertaining to this application, it is respectfully requested that the undersigned be contacted at the number indicated below.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0573. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,

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